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OFFICE OF PETITIONS

In re Application of
Alhamad
Application No. 10/758,714
Deposited: January 16, 2004
Attorney Docket No. 4429-A6CIC2
For: CONSTRUCTION MATERIAL
CONTAINING EXPANDED FLEXIBLE
MATERIAL

: DECISION GRANTING
: PETITION

This is a decision on the petition under 37 CFR 1.53(e), filed September 15, 2004 (certificate of mailing date September 13, 2004), requesting that the above-identified application be accorded a filing date of January 16, 2004.

The petition under 37 CFR 1.53(e) is GRANTED.

The application was deposited on January 16, 2004. On August 3, 2004, the Office of Initial Patent Examination mailed a Notice informing applicant that no filing date had been accorded to the application papers deposited on January 16, 2004 because no specification and no drawing were present, as is required by 35 U.S.C. 112 and 113, respectively.

In response to the Notice, petitioner timely filed the present petition. Petitioner requests that the above-identified application be accorded a filing date of January 16, 2004 on the basis that a specification containing claims and several sheets of drawing figures were received in the Patent and Trademark Office (PTO) on January 16, 2004. In support, the petition is accompanied by a copy of applicant's itemized postcard receipt showing an Office of Initial Patent Examination generated barcode citing January 16, 2004 as the date of receipt. The postcard lists, *inter alia*, that the filing includes 45 pages of specification, 2 pages of claims, 1 page of abstract, and 12 pages of drawings.

The non-annotated return postcard receipt constitutes *prima facie* evidence that the itemized components were filed on January 16, 2004. MPEP 503. Accordingly, the request is granted.

Pursuant to petitioner's authorization, the \$130 petition fee submitted on September 15, 2004 (certificate of mailing date September 13, 2004) will be refunded via a treasury check that will be scheduled shortly.

The application is being returned to Office of Initial Patent Examination for further processing, with a filing date of **January 16, 2004**, using the copy of the 45 pages of specification, 2 pages of claims, 1 page of abstract, and 12 pages of drawings submitted with the instant petition. Office records will be corrected to show that these items were present on filing.

The application file does not indicate a change of address has been filed in this case, although the address given on the petition differs from the address of record. A change of address should be filed in this case in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address noted on the petition. However, until otherwise instructed, all future correspondence regarding this application will be mailed solely to the address of record.

Any inquiries pertaining to this matter may be directed to the undersigned at (571) 272-3230.



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